

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

UNITED STATES OF AMERICA,

2019 DEC -3 P 12: 22

Plaintiff,

STEPHEN C. DRIES
CLERK

v.

Case No. 19-CR-
[18 U.S.C. §§ 844(h), 844(i), 1001, 1341]

BRIAN WHITTON,

Defendant.

19-CR-224

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

On or about March 25, 2017, in the State and Eastern District of Wisconsin,

BRIAN WHITTON

did maliciously damage by means of fire, a building located at 854 Martin Street, Waukesha,

Wisconsin, which building was used in interstate commerce.

In violation of Title 18, United States Code, Section 844(i).

COUNTS TWO AND THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. Beginning in approximately March 2017 and continuing to approximately September 2018, in the State and Eastern District of Wisconsin,

BRIAN WHITTON

knowingly devised and participated in a scheme to defraud the United States Liability Insurance Company by means of material false and fraudulent pretenses and representations.

2. At all times relevant to this Indictment, (a) Brian Whitton and a business partner had purchased, pursuant to a land contract, a commercial building located at 854 Martin Street in Waukesha, Wisconsin; (b) Whitton was the primary operator of a bar, the Stage Off Main, located within the commercial building located at 854 Martin Street in Waukesha, Wisconsin; (c) Whitton insured the building located at that address, the business personal property located at that address, and the business income associated with that address through a policy issued by the United States Liability Insurance Company; and (d) the United States Liability Insurance Company policy provided a limit of \$2,000,000 for insurance claims by Whitton pursuant to that policy.

The Scheme to Defraud

3. The essence of the scheme was to intentionally set fire to the building located at 854 Martin Street in Waukesha, Wisconsin, as alleged in Count One of this Indictment, and falsely claim that the fire was accidental and not originating from any act, design, or procurement by Whitton, in order to obtain insurance proceeds based on Whitton's material false and fraudulent claims.

Execution of the Scheme to Defraud

4. For the purpose of executing the scheme to defraud and attempting to do so,

BRIAN WHITTON

knowingly caused to be delivered by United States mail from the United States Liability Insurance Company of Wayne, Pennsylvania, the following:

Count	Date	Mailing
Two	On or about August 7, 2018	Check for \$60,898.75 payable to "The Stage Off Main LLC & Glen B. Kulkoski Client Trust Account" c/o Carr, Kulkoski & Stuller, S.C. 16869 W. Greenfield Avenue New Berlin, WI 53151 Check for \$4,368 payable to "The Stage Off Main LLC & Glen B. Kulkoski Client Trust" c/o Carr, Kulkoski & Stuller, S.C. 16869 W. Greenfield Avenue New Berlin, WI 53151
Three	On or about September 24, 2018	Check for \$96,566.32 payable to "The Stage Off Main LLC & Glen B. Kulkoski Client Trust Account" c/o Carr, Kulkoski & Stuller, S.C. 16869 W. Greenfield Avenue New Berlin, WI 53151

All in violation of Title 18, United States Code, Section 1341.

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

On or about March 25, 2017, in the State and Eastern District of Wisconsin,

BRIAN WHITTON

knowingly used fire to commit a felony which may be prosecuted in a court of the United States, to wit: mail fraud in violation of Title 18, United States Code, Section 1341, as charged in Counts Two and Three of this Indictment.

In violation of Title 18, United States Code, Section 844(h).

COUNT FIVE

THE GRAND JURY FURTHER CHARGES THAT:

1. On April 3, 2017, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) agents were investigating a commercial building fire at 854 Martin Street in Waukesha, Wisconsin, in a matter within the jurisdiction of the executive branch of the Government of the United States. ATF is a federal agency assigned to investigate fires occurring at commercial buildings engaged in interstate commerce.
2. An issue material to that investigation concerned the condition of the bar and the activity of Brian Whitton during the early morning hours of March 25, 2017, just prior to the discovery of the fire.
3. On April 3, 2017, during an interview with ATF agents investigating the fire, conducted in the State and Eastern District of Wisconsin,

BRIAN WHITTON

knowingly and willfully made a materially false, fictitious, and fraudulent statement.

4. Specifically, Whitton stated that when he was closing the bar during the early morning hours of March 25, 2017, he left over \$600 in the cash register, consistent with his standard practice. In fact, Whitton had emptied both cash registers of all paper currency prior to departing the bar.

All in violation of Title 18, United States Code, Section 1001.

A TRUE BILL:

[REDACTED]
FOREPERSON

Dated: 12/3/19


MATTHEW D. KRUEGER
United States Attorney